

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MELISSA L. BURNETT,

Plaintiff,

v.

Case No. 17-cv-00235-JPG-RJD

BAC HOME LOAN  
SERVICING, L.P., *et al.*,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiff's Motion (Doc. 2) for Leave to proceed *in forma pauperis* and Motion (Doc. 3) for Service of Process at Government Expense.

A federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious or fails to state a claim. 28 U.S.C. § 1915(e)(2)(B)(i) & (ii). The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983).

An action fails to state a claim if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). When assessing a petition to proceed *in forma pauperis*, a district court should inquire into the merits of the petitioner's claims, and if the court finds them to be frivolous, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

The Court is satisfied from Plaintiff's affidavit that she is indigent. However, plaintiff's complaint in this matter mirrors the complaint she filed in *Burnett v. Bank of America, et al.*, 16-cv-01257-JPG-RJD. In the previous matter, plaintiff was informed that her cause of action was filed beyond a reasonable time for filing and a motion under Rule 60 is a motion for relief from a judgment or order in which this Court has jurisdiction. The plaintiff has not identified a judgment entered by this Court where this Court would have jurisdiction nor has she provided reasonable circumstances for a delay in filing.

The Court is not going to repeat the many problems with plaintiff's pleading as the Court addressed them in the previous case. Those defects remain in plaintiff's current complaint. As such, plaintiff fails to state a claim to relief that is plausible on its face.

Therefore, Plaintiff's Motion (Doc. 2) for Leave to proceed *in forma pauperis* and Motion (Doc. 3) for Service of Process at Government Expense are **DENIED** and this matter is **DISMISSED** with prejudice. The Plaintiff is **WARNED** that continuing to file frivolous claims may result in sanctions. The Clerk of Court is **DIRECTED** to close this matter.

**IT IS SO ORDERED.**

**DATED:** 3/13/2017

s/J. Phil Gilbert  
**J. PHIL GILBERT**  
**U.S. DISTRICT JUDGE**